

**Final Order Denying Refund: 01-20210067
Individual Income Tax
For the Tax Year 2016**

NOTICE: IC § 4-22-7-7 permits the publication of this document in the Indiana Register. The publication of this document provides the general public with information about the Indiana Department of Revenue's official position concerning a specific set of facts and issues. The "Holding" section of this document is provided for the convenience of the reader and is not part of the analysis contained in this Final Order Denying Refund.

HOLDING

Refund claim by individuals filing jointly is denied as it was submitted beyond the three-year statute of limitations.

ISSUE

I. Tax Administration - Statute of Limitations.

Authority: IC § 6-8.1-6-1; IC § 6-8.1-9-1; *Dept. of State Revenue v. Caterpillar, Inc.*, 15 N.E.3d 579 (Ind. 2014); Income Tax Information Bulletin #18, 20140827 Ind. Reg. 045140324NRA (August 2014).

Taxpayers protest the denial of their refund claim.

STATEMENT OF FACTS

Taxpayers filed IT-40 tax returns requesting refunds for the 2016, 2017, and 2019 tax years. The Indiana Department of Revenue ("Department") denied the 2016 refund request because the return was filed beyond the three-year period required to file a refund claim. Taxpayers protested the denial and a hearing was held. This Final Order Denying Refund results. Additional facts will be provided as necessary.

I. Tax Administration - Statute of Limitations.

DISCUSSION

Taxpayers' 2016 tax return requesting a refund was filed on November 27, 2020. Taxpayers had previously submitted a Form IT-9 extension and an estimated payment for their 2016 tax liability.

As a threshold issue, "when [courts] examine a statute that an agency is 'charged with enforcing . . . [courts] defer to the agency's reasonable interpretation of [the] statute even over an equally reasonable interpretation by another party.'" *Dept. of State Revenue v. Caterpillar, Inc.*, 15

N.E.3d 579, 583 (Ind. 2014). Thus, all interpretations of Indiana tax law contained within this decision are entitled to deference.

IC § 6-8.1-9-1(a) provides a limitation on requesting a refund as follows:

If a person has paid more tax than the person determines is legally due for a particular taxable period, the person may file a claim for a refund with the department . . . [I]n order to obtain the refund, the person must file the claim with the department within three (3) years after the later of the following:

- (1) The due date of the return.
- (2) The date of payment

Due dates for income tax returns can be automatically extended in accordance with IC § 6-8.1-6-1(c). The Department has clarified the process for obtaining this extension in Income Tax Information Bulletin #18, which explains:

If the taxpayer does not have a federal extension, the Application for Automatic Extension of Time to File (Form IT-9) is used to obtain an automatic extension of time to file an Indiana resident or nonresident income

tax return (Indiana Forms IT-40, IT-40PNR, or IT-40 RNR). Any taxpayer who wants to request an extension of time to file must complete and file Form IT-9 on or before the original due date of the Indiana individual income tax return. An Indiana extension (Form IT-9) extends the due date to the same due date as a federal extension plus 30 days. A federal extension is an automatic 6-month extension.

Income Tax Information Bulletin #18, 20140827 Ind. Reg. 045140324NRA (August 2014).

Taxpayers filed their Form IT-9 and an estimated payment in April 2017, which extended their filing deadline to November 17, 2017. However, Taxpayers did not mail their return requesting a refund until November 27, 2020. This return was thus submitted outside of the three-year statute of limitations prescribed by IC § 6-8.1-9-1(a). Therefore Taxpayers are unable to obtain their requested refund.

Taxpayers explained that they experienced significant delays in 2020 while trying to obtain a Form W-2, which delayed their 2016 refund request filing. Unfortunately, the Department is unable to issue a refund without a timely request. Going forward, Taxpayers are encouraged to file a refund request within the statute of limitations even if they are experiencing delays with obtaining all necessary documentation. This will ensure that the filing is timely, and the statute of limitations will not be a disqualifying factor.

FINDING

Taxpayers are respectfully denied.

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